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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,052	10/22/2003	Barry Charles Kilby	12406/83	7288
7590	06/18/2008		EXAMINER	
KENYON & KENYON One Broadway New York, NY 10004			PANDYA, SUNIT	
		ART UNIT	PAPER NUMBER	
		3714		
			MAIL DATE	DELIVERY MODE
			06/18/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/692,052	KILBY ET AL.	
	Examiner	Art Unit	
	SUNIT PANDYA	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 April 2008.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 31-61 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 31-61 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/16/08 has been entered, wherein the applicant has canceled all of the previously pending claims (claims 1-30) and have added new claims (claims 31-61).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 31-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Healy (GB 2,231,189), and further in view of Vance (WO 00/23910).

Claims 31, 53: Healy teaches of method for facilitating the play of a missing object location game which provides a game image to the game player, the game image is configured to omit the missing object from the game image and allows the player to indicate a guess as to the proper location of the missing object on the game image (pages 1-2, paragraph 3). In response to the player's guess, determine whether the

player has won the game, depending on the distance between the player's guess as to the proper location of missing object on the game image (page 3, paragraph 3).

However Healy fails to teach of a security feature that require player to enter a unique code via a network. In an analogous art of computer gaming system, Vance teaches of accessing a game on a website by means of a security feature or code (figure 1 & abstract). It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the security features such as secure access as taught by Vance, in the game of Healy in order to allow access to the game by certain players who have made purchase to participate in the game, and block player's who have not contributed monetarily to participate in the game.

Claims 32, 54: Healy teaches of game image is a picture of a sporting event including a ball, where the ball is omitted from the picture (figure 4).

Claims 33, 34, 42, 55: Vance teaches of accessing a game on a website by means of a security feature or code (figure 1 & abstract), However Vance does not explicitly state that the security code is stored on a ticket. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Vance to include the security feature on a ticket, or barcodes or on magnetic strips, in order to make it easily accessible and portable for the player to use.

Claims 35-37, 61: Healy teaches of providing coordinates associated with the game image, and receiving the player's guess by receiving a location in the set of coordinates on the game image selected using a pointing device (wherein the

coordinates are a set of X and Y grid, and the possibility of player winning could easily be modified by modifying the area within the grid) (page 6, paragraph 3).

Claim 38: Healy teaches of a pointing device being a mouse (page 8, paragraph 2).

Claims 39, 56: Healy teaches of displaying the missing object on the display device at the location pointed by the pointing device (figure 4).

Claims 40,41: Healy teaches of receiving predetermined number of additional guesses from the player, wherein each indicating a corresponding location guess as to the proper location of the missing object, and displaying an image at the guess locations (figure 5, page 6, paragraph 2).

Claim 43: Healy determines the winning if the players' guess is within a predetermined distance of the actual location of the missing object (page 7).

Claims 44, 45: Healy determines the winning if the players' guess is within a predetermined distance of the actual location of the missing object (page 7), wherein a processor is confined to evaluate the distance to determine the winner, and a game programmer would find it within their means to be able to manipulate the processor thus controlling the distance to increase or decrease the number of winners.

Claim 46: Combination of Healy and Vance teach of receiving from plurality of players respective guesses as to the proper location of the missing object in the game image.

Claims 47-50, 57-60: Healy determines the winning if the players' guess is within a predetermined distance of the actual location of the missing object (page 7).

Claim 51: Vance teaches of communication through an email regarding a players' game activity.

Claim 52: Healy teaches of displaying the game image with the missing object in the actual location (page 9).

Response to Arguments

Applicant's arguments with respect to claims 31-61 have been considered but are moot in view of the new ground(s) of rejection.

Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Constantine (WO 98/52663), Muzaffar (GB 2271262), Kaye (5,569,082), Smeltzer (5,772,511), Small (4,669,730).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUNIT PANDYA whose telephone number is (571)272-2823. The examiner can normally be reached on 8 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714

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